IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

WP(C).No. 24251 of 2007(K)

PETITIONER:

P.G.REJANI, W/O.K.K.VIJAYAKUMAR,
PARAMBATHU KRISHNA VILAS, THENGELI P.O.,
KUTTOOR, THIRUVALLA (LOWER GRADE HINDI TEACHER
UNDER ORDERS OF TRANSFER TO DEVASWOM BOARD
HIGH SCHOOL, KANGAZHA).

BY ADV. SRI.S.SUBHASH CHAND
SMT.M.P.MARY

RESPONDENTS:

1. THE DISTRICT EDUCATIONAL OFFICER,
OFFICE OF THE DISTRICT EDUCATIONAL OFFICER,
ATTINGAL.

2. THE DISTRICT EDUCATIONAL OFFICER,
OFFICE OF THE DISTRICT EDUCATIONAL OFFICER,
KANJIRAPPALLY.

3. THE HEADMISTRESS, DEVASWOM BOARD HIGH
SCHOOL, KANGAZHA.

4. THE CORPORATE MANAGER, TRAVANCORE
DEVASWOM BOARD SCHOOLS/SCRETARY, TRAVANCORE
DEVASWOM BOARD, OFFICE OF THE TRAVANCORE DEVASWOM
BOARD, NANDHANCODE, THIRUVANANTHAPURAM.

5. G.ABHAYAN, LOWER GRADE HINDI TEACHER,
DEVASWOM BOARD HIGH SCHOOL, KANGAZHAA.

BY ADV. SRI.N.SUGATHAN
SMT.VARSHA BHASKAR
SRI.P.B.AJOY
SRI.K.N.VENUGOPALA PANICKER, SC, TDB
GOVERNMENT PLEADER SRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/08/2007, ALONG WITH WPC NO. 23665 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of the order dated 24.7.2007 issued by respondent no.4.

Ext.P2: True copy of the order dated 28.7.2007 issued by respondent no.4.

Ext.P3: True copy of the relieving order dated 30.7.2007.

Ext.P4: True copy of the representation dated 31.7.2007 submitted by the petitioner before respondent nos.4,2 & 1.

Ext.P5: True copy of the order dated 4.8.2007 passed by respondent no.4 cancelling Ext.P2 order of transfer.

RESPONDENT'S EXHIBITS:

Ext.R5(a): True copy of the order No.ROC 4660/07/G.Edn. Dated 24.7.2007.

Ext.R5(b): True copy of order No.ROC 4660/07/Edn. Dated 26.7.2007.

Ext.R5(c): True copy of order No.ROC 4660/07/Edn. Dated 28.7.2007.

Ext.R5(d): True copy of order No.ROC 4660/07/Edn. Dated 4.8.2007.

// True copy //

P.A. To Judge

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A.K.BASHEER, J.

W.P.(C)Nos.23665 & 24251 OF 2007

Dated this the 17th day of August, 2007

JUDGMENT

These two writ petitions are being disposed of by this common judgment, since the issue involved in them is one and the same and the latter writ petition is in fact a sequel to the former.

2. Petitioner and respondent no.5 are two Lower Grade Hindi Teachers working in two educational institutions under the management of respondent no.4. By Ext.P1 order dated July 24, 2007, petitioner was transferred from Vamanapuram to Kangazha and respondent no.5 was transferred from DBHS Kangazha to Vamanapuram. It is revealed from Ext.P3 that petitioner was relieved from Vamanapuram on July 30, 2007. But the Headmistress refused to admit her to duty at Kangazha. It was at that stage, petitioner had preferred Writ Petition No.23665/2007 seeking appropriate direction to the head of the institution to admit her to duty at Kangazha.

3. The matter had taken another turn in the meanwhile. On July 26, 2007 Ext.R5(b) order was issued cancelling the order of transfer of the petitioner from Vamanapuram to Kangazha. Two days later, viz. On July 28, 2007, Ext.P2 order was issued by the management transferring the petitioner from Vamanapuram to Kangazha again. The matter did not stop there. On August 4, 2007 the management issued Ext.P5 order cancelling petitioner's transfer yet again. The said order is sought to be quashed in Writ Petition No.24251/07.

4. Learned counsel for the petitioner submits that the series of orders of transfer and cancellation have been issued only at the behest of respondent no.5 who wanted to somehow continue at Kangazha. It is on record that respondent no.5 is the junior most Language Teacher and petitioner is senior to respondent no.5. But, according to respondent no.5 petitioner had joined at Vamanapuram only in October 2006 and therefore, she cannot make a demand for transfer to Kangazha.

5. On the contrary, it is contended by the petitioner that respondent no.5 had been working at Kangazha for the last several years, though he had worked at Erumeli for a short duration. But, in the nature of the order that I propose to pass, I do not deem it necessary to refer to any of the above contentions.

6. It is seen admitted by respondent no.5 in the counter affidavit that the management might have been persuaded to retain him at Kangazha, in view of the resolution passed by the Local Grama Panchayat and also the request made by the Parent Teachers Association to retain him at Kangazha. It is also contended by respondent no.5 that the Assistant Secretary, in the absence of Secretary, had issued Exts.P1 and P2 orders which he was not competent to do. Yet again, I refrain from making any observation on this aspect. But, I may place on record the contention raised by the petitioner that in the absence of the Secretary, Assistant Secretary is competent to issue orders, especially in view of the provisions

contained in Rule 10 Chapter XIV A KER.

7. Having regard to the entire facts and circumstances, Exts.P1, P2, P5 and R5(b) orders of transfer and cancellation are liable to be quashed. I do so. The Travancore Devaswom Board which is the educational agency shall reconsider the matter and take a fresh decision after hearing the petitioner and respondent no.5. This shall be done as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. The relevant rules governing the field of transfer and posting shall be strictly adhered to by the Educational Agency while taking a decision in the matter.

Writ petitions are disposed of as above.

A.K.BASHEER, JUDGE

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